

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

RECEIVED
REGIONAL HEARING
C. H. A.

IN THE MATTER OF:) Docket No. CAA-05-2002-0003
) 02 NOV -8 A9:48
Poly-Carb, Inc.) Proceeding to Assess an
Cleveland, Ohio,) Administrative Penalty
) under Section 113(d) of the
) Clean Air Act, 42 U.S.C. § 7413(d)
Respondent.)

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On April 2, 2002, U.S. EPA filed the complaint in this action against Respondent Poly-Carb, Inc. (Poly-Carb). The complaint alleges that Poly-Carb violated Section 112 of the Act, 42 U.S.C. § 7412, and the National Volatile Organic Component (VOC) Emission Standards for Architectural Coatings of the Clean Air Act, 40 C.F.R. Part 59, at its facility in Cleveland, Ohio.

3. Poly-Carb filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Poly-Carb admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

5. Poly-Carb waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6. Poly-Carb certifies that it is fully complying with the National Volatile Organic Component (VOC) Emission Standards for Architectural Coatings of the Clean Air Act, 40 C.F.R. Part 59, Subpart D.

7. The parties consent to the terms of this consent agreement and final order (CAFO).

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. In consideration of information exchanged by the parties, consideration of the steps Respondent took to achieve compliance, Respondent's prompt and cooperative resolution of this enforcement matter, and other relevant factors, U.S. EPA agrees to mitigate the proposed penalty of \$89,486.00 to \$50,000.00.

10. The parties agree to complete settlement of the Complaint by Respondent's payment of \$50,000.00. Payment of the compromise penalty amount is not to be construed as an admission of liability or wrongdoing by either party, but is to be considered payment of a disputed claim in order to avoid the expense and uncertainty of further administrative proceedings or litigation. Poly-Carb must pay the \$50,000 compromise penalty amount by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

11. Poly-Carb must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

John Matson, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13. The parties acknowledge that penalties assessed for violations of the CAA are not deductible for federal tax purposes pursuant to 26 U.S.C. § 162(f).

14. If Poly-Carb does not pay timely the compromise penalty amount, U.S. EPA may bring an action to collect any unpaid portion of the compromise penalty amount with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). Poly-Carb will pay a \$15 handling charge each month that any portion of the compromise penalty amount is more than 30 days past due. Poly-Carb will pay a quarterly nonpayment penalty each quarter during which the compromise penalty amount is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding compromise penalty amount and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

16. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the complaint.

17. Nothing in this CAFO restricts U.S. EPA's authority to seek Poly-Carb's compliance with the Act and other applicable laws and regulations.

18. This CAFO does not affect Poly-Carb's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

19. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Poly-Carb's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

20. The terms of this CAFO bind Poly-Carb, and its successors, and assigns.

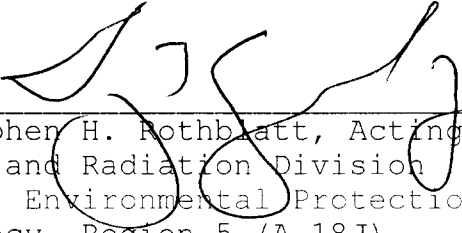
21. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

22. Each party agrees to bear its own costs and fees in this action.

23. This CAFO constitutes the entire agreement between the parties.

U.S. Environmental Protection
Agency, Complainant

Date: 11/6/02

By:  FOR
Stephen H. Rothblatt, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

Poly-Carb, Inc., Respondent

Date: 10/25/02

By: 
Dr. Anil Goel, President
Poly-Carb, Inc.

CONSENT AGREEMENT AND FINAL ORDER
[Poly-Carb, Inc.]
Docket No.

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: 11-07-02



Thomas V. Skinner
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

In the Matter of Poly-Carb, Inc.
Docket No. CAA-05-2002-0003

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REGIONAL HEARING
CLERK

CERTIFICATE OF SERVICE

I, Betty Williams, certify that I hand delivered the ^{02 NOV -8 09:48}
original of the Consent Agreement and Final Order, docket number
CAA-05-2002-0003 to the Regional Hearing Clerk, Region 5, United
States Environmental Protection Agency, and that I mailed correct
copies by first-class, postage prepaid, certified mail, return
receipt requested, to Poly-Carb Inc., and Poly-Carb Inc's Counsel
by placing them in the custody of the United States Postal
Service addressed as follows:

Dr. Anil B. Goel, President
Poly-Carb, Inc.
33095 Bainbridge Road
Cleveland, Ohio 44139

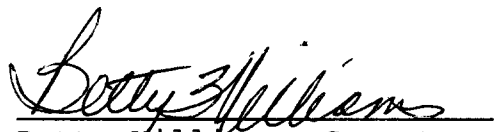
M. Alleen C. VanBebber, Esq.
Attorney at Law
Law Office of Alleen C. VanBebber
5925 Beverly
Mission, KS 66202

I also certify that copies of the Consent Agreement and
Final Order was sent by First Class Mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

Mark Vilem, Project Coordinator
Department of Public Health and Welfare
Division of the Environment
1925 St. Clair Aver.
Cleveland, Ohio 44114

on the 8th Day of November 2002.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBERS: 70010320000601784049 - Dr. Anil B. Goel
President
70010320 000601784070 - Ms. Aileen C. VanBever, Esq.
Attorney at Law